

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Civil Action No.: 5: 20-CV-618**

SAMUEL STEVEN LESTER,

Plaintiff,

v.

VALLEY PROTEINS, INC.,

Defendant.

**NOTICE OF REMOVAL  
[28 U.S.C. § 1441, et seq.]**

Defendant Valley Proteins, Inc. (“Valley Proteins”), by and through undersigned counsel, gives notice of the removal of the above-captioned action pursuant to 28 U.S.C. § 1441, *et seq.*, from the Superior Court of Cumberland County, North Carolina to the United States District Court for the Eastern District of North Carolina. As grounds for this removal, Defendant states:

1. On or about October 22, 2020, Plaintiff Samuel Steven Lester (“Plaintiff”) commenced a civil action against Defendant by filing a Complaint in the Superior Court of Cumberland County, North Carolina, Civil Case No. 20 CVS 5755 (“state court action”). In his Complaint, Plaintiff states claims of negligence and breach of warranty against Defendant. *See* Complaint and the accompanying summonses attached hereto as **Exhibit A** at ¶¶ 12-14. All claims against Defendant arise out of an alleged explosion that occurred at Defendant’s processing plant on March 11, 2020. *Id.*, ¶¶ 8, 10, 11.
2. As a result of Defendant’s alleged wrongful conduct, Plaintiff alleges in his Complaint that he is entitled to recover compensatory damages in excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs, from Defendant. *Id.* (Pursuant to Rule 8(a)(2) of the North Carolina Rules of Civil Procedure, in a negligence action where the

damages exceed twenty-five thousand dollars (\$25,000), the pleading shall state that the relief demanded is for damages in excess of twenty-five thousand dollars (\$25,000).)

Upon information and belief, Plaintiff seeks substantial damages well in excess of seventy-five thousand dollars (\$75,000).

3. There is complete diversity of citizenship among the parties based on the following:
  - a. Plaintiff is a citizen of North Carolina. *See* Complaint (Ex. A), ¶ 1.
  - b. Defendant is a corporation organized under the laws of the Commonwealth of Virginia with its principal place of business located at 151 Valpro Drive, Winchester, VA 22603. *See* Certificate of Good Standing from the State Corporation Commission of the Commonwealth of Virginia as **Exhibit B**, general corporate information and 2020 Annual Report maintained by Virginia's State Corporation Commission as **Exhibit C** and information from Valley Proteins' website as **Exhibit D** (<https://www.valleyproteins.com>).
4. Because the alleged amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and there is complete diversity of citizenship among the parties, this Court has original jurisdiction over the action pursuant to 28 U.S.C. § 1332.
5. Defendant's notice of removal is timely as it is filed within thirty (30) days after receiving the first pleading or notice, and thus the state court action may be removed to this Court per 28 U.S.C. § 1446(b).
6. The state court action is currently pending in the Superior Court of Cumberland County, North Carolina, which county is located within the geographic boundaries for this Court. Therefore, the United States District Court for the Eastern District of North Carolina, Western Division is the proper venue upon removal pursuant to 28 U.S.C. §§ 1441(a).

7. Defendant will promptly notify Plaintiff's counsel and the Clerk of Court for Cumberland County, North Carolina of the removal of the state court action to this Court through the filing and service of this notice with said Clerk of Court, as required by 28 U.S.C. § 1446(d).

Respectfully submitted, this the 20<sup>TH</sup> day of November, 2020.

YATES, MCLAMB & WEYHER, L.L.P.

By: /s/ Brian M. Williams  
BRIAN M. WILLIAMS  
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# CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing was served on the following parties to this action by: [ ] Via Fax [ ] via electronic mail via consent of the Parties before 5:00 p.m. Eastern Time on a regular business day [x] by depositing a copy of the same in the United States Mail postage prepaid and addressed to:

Kennedy L. Thompson  
E.C. Thompson, III  
Thompson & Thompson, P.C.  
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*Attorneys for Plaintiff*

This the 20<sup>th</sup> day of November, 2020.

YATES, MCLAMB & WEYHER, L.L.P.

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